



**CITY OF LODI
COUNCIL COMMUNICATION**

AGENDA TITLE: Adopt Resolution Approving the Joint Use Agreement Between the Lodi Unified School District and the City of Lodi for Reciprocal Use of Facilities for the Term of July 1, 2010 through June 30, 2020 (PR)

MEETING DATE: January 5, 2011

PREPARED BY: Interim Parks and Recreation Director

RECOMMENDED ACTION: Adopt resolution approving the Joint Use Agreement between the Lodi Unified School District and the City of Lodi for reciprocal use of facilities for the term of July 1, 2010 through June 30, 2020.

BACKGROUND INFORMATION: The City and Lodi Unified School District have a long history of using each others recreational facilities to benefit the community's recreational needs, from exercise programs to competitive athletics. This relationship was first formalized with a Joint Use Agreement adopted on April 19, 1969.

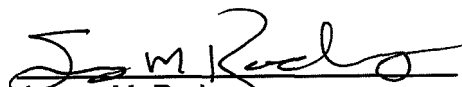
The current Joint Use Agreement between LUSD and the City of Lodi expired June 30, 2009. Both entities continue to operate under the former agreement until a new agreement is approved. Attached for Council approval is the proposed agreement that would be in effect through June 30, 2020.

Comments and suggestions provided by the City Council at the Shirtsleeve Session of August 10, 2010, regarding the Joint Use Agreement are incorporated in the attached draft.

The Joint Use Agreement was approved by the Lodi Unified School District Board at their meeting on December 14, 2010.


FISCAL IMPACT: \$60,000 annual credit to the LUSD and \$60,000 in annual use to the Parks and Recreation Department for a net zero sum impact.

FUNDING AVAILABLE: Not applicable.


James M. Rodems
Interim Parks and Recreation Director

cc: City Attorney

APPROVED:



Konrad Bartlam, City Manager

AGREEMENT FOR RECIPROCAL USE OF PUBLIC FACILITIES

LODI UNIFIED SCHOOL DISTRICT AND CITY OF LODI

THIS AGREEMENT ("Agreement"), entered into this ____ day of _____, 2010, and effective as of _____, 2010 (the "Effective Date"), is by and between the City of Lodi ("City") and the Lodi Unified School District ("District").

WITNESSETH:

WHEREAS, District and City have a mutual interest in providing adequate and attractive public facilities for education and recreation for the residents of Lodi and its environs; and

WHEREAS, both District and City have certain physical facilities, including pools, parks, stadiums, gymnasiums, indoor meeting rooms, play areas, and athletic fields, which may be beneficially used by the other in a comprehensive program of serving the community; and

WHEREAS, District and City have in the past executed a series of agreements for the mutual benefit and use of facilities and services; and

WHEREAS, District and City desire to consolidate and incorporate provisions for the joint use of those facilities into a master agreement.

NOW, THEREFORE, in consideration of the mutual agreements herein and other consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

I.

PREVIOUS AGREEMENTS SUPERSEDED

Prior joint use agreements between the City and the District concerning recreational facilities are superseded in their entirety.

II.

FACILITIES INCLUDED IN THIS AGREEMENT

A. Unless otherwise specified, this Agreement covers the following City facilities:

Zupo field; Kofu Park; Softball Complex, Chapman Field; Blakely Park; Lodi Grape Bowl; Blakely Field/Enze Swim Complex; Lodi Lake Park; Salas Park; and Peterson Park.

B. Unless otherwise specified, this Agreement covers the following District facilities:

Tokay High School Pool; Lodi High School Pool; and all school athletic fields and school indoor facilities within the City of Lodi and the surrounding rural areas (Woodbridge, Lockeford, Houston, Victor, Henderson, and Tokay Colony).

C. Facilities not covered by this Agreement:

1. District-owned facilities not specifically covered by this Agreement are subject to use pursuant to the terms of the District's facilities use policy, and must be requested using the District's "Request for Use of Facilities" form. Provisions of this Agreement do not extend to those facilities. However, to the extent a City Use would not conflict with a District Use or undermine the District's budgeted revenue projection for the facility, the District may authorize, in its sole discretion, the occasional use of facilities not covered by this Agreement.
2. City-owned facilities not specifically covered by this Agreement are subject to use pursuant to the applicable provisions of City Ordinance, and/or policy, and the terms of the "Application for Use of City of Lodi Parks and Recreation Facilities". Provisions of this Agreement do not extend to those facilities. However, to the extent a District Use would not conflict with a City Use or undermine the City's budgeted revenue projection for the facility, the City may authorize, in its sole discretion, the occasional use of facilities not covered by this Agreement.

III. SCHEDULING

A. Scheduling Authorization

1. All scheduling for facilities under the provisions of this Agreement must be done by, and with the approval of, the Authorized Representative.
 - a. The Authorized Representative for the City of Lodi is the City Manager, the Parks and Recreation Director, or their designee.
 - b. The Authorized Representative for school-related activities and school sites (including field use) is the Superintendent, the Assistant Superintendent, Facilities and Planning, or their designee. All final scheduling approvals shall be at the Facilities and Planning level or above. Scheduling of District Facilities shall not be performed at the Site Administrator level.
2. All requests for facilities are to be submitted on the appropriate form(s) and must be signed by the Authorized Representative.

3. Unless a different priority is agreed to by the parties in writing for a particular facility that is subject to this Agreement, the priority of use for scheduling purposes shall be as follows:
 - a. District Facilities:
 - i. District Use
 - ii. City Use
 - iii. Community Use
 - b. City Facilities:
 - i. City Use
 - ii. District Use
 - iii. Community Use
 - c. As used in this paragraph "District Use" means the District's educational program and related school activities but shall not include third party rentals that are unrelated to the District's educational program, unless District has already entered a contract to rent the facility to a third party prior to the City's request for the use.. As used in this paragraph, "City Use" means City's municipal functions but shall not include third party rentals that are unrelated to City's municipal functions unless the City has already entered a contract to rent the facility to a third party prior to the Districts request for the use.

B. Advanced Scheduling

1. Events which require advanced scheduling, such as meets or tournaments, may be scheduled up to one (1) year in advance.
2. Requests for advanced reservations by the City or District will be confirmed or denied by the Authorized Representative within fifteen (15) working days of submittal.
 - a. All denials must include the reason(s) for denial.
 - b. If disagreements over proposed fees or charges, or use provisions, are not resolved within the fifteen (15) day period, the use shall be deemed denied unless the period is extended by mutual consent.

C. Scheduling During the Regular School Year

1. Swimming Pools (Blakely/Enze, Tokay High, Lodi High)
 - a. The Authorized Representatives of the District and City shall meet in January of each year to coordinate and confirm the year's schedule of uses, reservation forms, event contact persons, location/procedure for filing

the reservation forms, and to establish procedures for notifying users of emergency closure(s).

- b. District pools are available when they are not being used for District purposes.
 - i. The Tokay High School Pool and Lodi High School Pool may be closed at District discretion following each school's last scheduled use (usually in November). The District will make every effort to close the pools for winter maintenance on a rotating basis.
 - ii. Ninety (90) days prior to the anticipated closure, of the Tokay High School Pool and the Lodi High School Pool, the District will notify the Parks and Recreation Department to allow for coordination with the City's aquatics program. Except for extraordinary circumstances, the District will not close more than one of its pools at a time.
- c. City pools are not available for scheduled District use during June, July and August, except for single events upon request by the District and approval by the City's Authorized Representative.
- d. The Tokay High School Pool will be available to the City for community swimming as outlined in Section 4 Paragraph E of this Agreement.
- e. City or District pools will be closed immediately by authorized staff if there are any health or safety concerns, or if the water quality falls below acceptable minimum standards as defined by the San Joaquin Public Health Services, and/or any regulating State agency, and shall remain closed until use is authorized by the appropriate health agency.
- f. In the event of a closure of a District or City pool, the Authorized Representatives will be notified of the closure immediately. Every attempt shall be made to accommodate alternative scheduling of events, or a rescheduling of canceled events.

2. Lodi Grape Bowl

- a. Subject only to first priority City Uses, the District shall have preferential use of the Lodi Grape Bowl for football games and graduation events, except when preempted by the Lodi Grape Festival and National Wine Show (generally in mid-September of each year).
 - i. District shall provide to the City a schedule of District football games and related events no later than May 1 preceding the season for which the schedule applies.

- ii. District shall provide the City with the schedule for graduation events not later than four **(4)** months preceding the graduation (generally February 1 for events occurring the last week of May/first week of June).
 - b. District acknowledges that the Lodi Grape Bowl is being brought up to ADA standards over time pursuant to a City Council-approved ADA transition plan and accepts the use of the Lodi Grape Bowl in the state that it is in at the time of use. Currently there are no restrooms or snack bar facilities at the Lodi Grape Bowl and users are required to provide for their own concessions at their own cost. The Parks and Recreation Department will provide portable restroom facilities until new permanent structures are built. To the extent the District provides portable restrooms or concessions facilities, District shall comply with ADA requirements for such temporary facilities at District's expense.
3. Athletic Fields, Complexes, Indoor Facilities
- a. All fields, both City and District, that are to be used for seasonal play must be scheduled sixty (60) days prior to the start of the season, using the appropriate forms of each jurisdiction and submitted to each party's Authorized Representative.
 - b. All requests are to be confirmed or denied within fifteen (15) working days of the submittal of the request.
 - c. All athletic fields (both City and District) are subject to closure when the fields are wet to the extent that team use could result in significant damage to the fields.
 - i. This is to be determined by the City's Parks Director or Superintendent for City facilities, and the District's Director, Maintenance & Operations for District facilities.
 - ii. Rain call procedures for fields are to be mutually agreed upon at the start of each season, or when the facilities use form is approved if it is for singular events.
 - d. In the event that an extraordinary circumstance necessitates the closure of a City or District field, complex, or indoor facility, the user's Authorized Representative shall be notified as soon as possible. It is that person's responsibility to notify all other affected parties.
 - i. Whenever possible, weather disrupted events shall be relocated to other facilities in-lieu of cancellation.

- ii. Every attempt shall be made to accommodate a rescheduling of cancelled activities.
4. If disagreements over proposed fees or charges, or use provisions, are not resolved within the designated period for approval or denial of the request for use as provided in Section III Paragraph B of the Agreement, the use shall be deemed denied unless the time period is extended by mutual consent.
5. Neither the City nor the District shall unilaterally cancel a previously scheduled event unless the facility could not be used by either party due to maintenance, weather, act of God or legal reasons. If a previously scheduled event is unilaterally canceled for any reason, the canceling party shall give notice to the Authorized Representative of the other party of the closure within eight (8) hours of the events necessitating closure. The canceling party shall also offer any available replacement facility that is suitable for the operation of the event.

IV. OPERATIONS

- A. If a party's "In Kind Match" account is debited because the facility owner requires its staff to be onsite as a condition of using its facility, the facility owner's assigned personnel shall be readily available at all times they are on-duty to provide operational, maintenance and emergency assistance to the using party.
- B. Food and Beverage Concessions
 1. User and/or associated organizations may operate food and/or beverage concessions during scheduled events under the following criteria:
 - a. If food and beverages are permitted in the facility; and
 - b. When there are no other proprietary or exclusionary agreements for concessions at the facility.
 2. If food concessions are to be a part of the event, it should be so noted on the facilities use form and must be approved by the facility owner.
 3. During such events, user and/or associated organizations shall have an exclusive right to operate the concession stands and to the sale proceeds.
 4. User may assign the right to operate the concession stand(s) only as agreed to by the owner of the facility.

5. Exclusive Product Contracts

- a. If a facility is covered under an exclusive product contract, the user shall abide by the provisions of the contract.
 - b. It is the responsibility of the user to obtain a copy of any pertinent contract provisions from the facility owner. The user's signature on the facilities use form shall constitute understanding and acceptance of the provisions.
 - c. It is the responsibility of the user to inform all affiliated users of the contract provisions and to monitor compliance.
6. All concession stands or areas used for concession are to be completely vacated at the conclusion of the event, and are to be left in a clean and usable condition.
7. All concessions must meet Department of Health Services standards and requirements.
8. Concessions may remain for the duration of the event unless other arrangements are agreed upon at the time that the facilities use form is approved; however, they are the sole responsibility of the user.

C. Security

1. Either party may require the other to provide security for events at a facility. Security costs shall be paid by the user and not debited against the "In Kind Match" account set forth in Section V Paragraph A-I.

D. Lodi Grape Bowl

1. City agrees to staff the Lodi Grape Bowl with appropriate maintenance/standby personnel to coordinate and operate the facility when it is being used by District, and such costs shall be debited to the District's In-Kind Match account.
2. District shall furnish all security and event personnel, as required by the City, at District's expense.
3. A District administrator and/or a school athletic director shall be present during school or District events.

E. Tokay High School Pool Community Pool Program

1. District shall make the Tokay High School Pool available to the City for the operation of a Summer Community Pool Program. The use of swimming pool facility shall be in accordance with the regular procedures of the District in granting permits for use of school facilities as provided for by the laws of California and the rules and regulations of the District Board of Education.
2. A schedule of dates for the use of the swimming pool facility will be arranged in advance by City and District and that this schedule will be arranged to avoid conflict between school and recreation use. In scheduling of the use of the swimming pool facility, school events and programs shall have first priority, recreation programs shall have second priority, and any other events by other groups or agencies shall have third priority; provided, however, the contracts to use the swimming pool facility that District entered into with third parties prior to entering into this Agreement shall also have first priority. The Assistant Superintendent, Facilities and Planning, or his designee, shall make every effort to notify the City Director of Parks and Recreation, or his designee, of school needs which pre-empt scheduled City recreational activities and will advise in the planning and administering of a recreation program to be conducted by the City at the swimming pool complex.
3. School properties and facilities are intended primarily for school purposes and for the benefit of children of school age. It is therefore agreed that, in planning programs and scheduling activities on school grounds, the recreational needs and opportunities of such children will be well provided for and adequately protected by both parties hereto.
4. In the event of any dispute or difference arising between the parties hereto as to the use of the swimming pool facility, then, in that event, resolution of said dispute or difference shall be first discussed and negotiated between the City Director of Parks and Recreation and the Principal of Tokay High School; further negotiation, if required, shall be settled by the City Council and the District Governing Board.
5. Any and all revenues derived by either party in the use and operation of said swimming pool during their respective periods of use shall be retained by the party.
6. A facility use schedule will be submitted to the District by the City no later than March 1st of each year, with the expectation that the City's contracted pool use will begin during the first week of June and continue through the last week of July, with possible weekend use during the month of August. This schedule is subject to amendment based on changes to the District's school-year calendar.

7. District agrees to staff the Tokay High School Pool with appropriate maintenance/standby personnel to coordinate and operate the facility when it is being used by City, and such costs shall be debited to the City's In-Kind Match account.
8. City shall furnish all security and event personnel, as required by the District, at City's expense.
9. A City program administrator or other responsible personnel shall be present during City Use or events.

F. Athletic Fields, Complexes, and Indoor Facilities

1. Each owner will staff its facility with the appropriate maintenance/standby personnel to coordinate and operate the facility, and all costs for such personnel shall be charged against the user's "In Kind Match" account.
2. Users will monitor the facilities during their use, and shall maintain all facilities in a safe and clean condition.
3. Each party shall be responsible to maintain and repair their respective facilities. However, the user shall be responsible for janitorial maintenance at the conclusion of each use and for damage caused during each use as provided in Section VII(C) of this Agreement.

**V.
FEES AND CHARGES**

A. "In Kind Match" Account and Payment

1. Both parties shall start each fiscal year with a paper account containing a \$60,000 credit ("In Kind Match" account.) Each party's In Kind Match account will be debited by the amount of the fees and charges incurred as a result of using the other party's facilities. No fees or charges will be paid by either user until after their In Kind Match account is drawn down to zero. Once the credit in the "In Kind Match" account is zero, the overdrawn party will pay all fees and charges that it incurs for the use of the other party's facilities during the remainder of the fiscal year. Prior to the start of each fiscal year, the Authorized Representatives from both parties shall meet to establish fee and charge rates ("Master Rate Schedule") for all facilities covered by this Agreement. All fees and charges charged to the "In Kind Match" account, and all fees and charges in excess of the "In Kind Match" account shall be charged at the "Master Rate Schedule."

2. Each party will exchange reports on a quarterly basis, or as agreed upon by their Authorized Representative, which shall detail facility usage including dates of use, names of users, facilities used, and fees associated with the usage. The reports, to be done by the 15th of the month following the end of the quarter, will include total fees for the year-to-date.
 3. The Authorized Representatives for each party shall meet at the beginning of each fiscal year to determine whether the amount of the "In Kind Match" is equitable for both parties. In the event that either party is obtaining less than seventy-five percent (75%) of the value of the "In Kind Match" credit that the other party is receiving, the parties shall reopen negotiations to reestablish a new "In Kind Match" amount for the remaining term of this Agreement.
- B. The initial Master Rate Schedule is to be established by mutual agreement of both parties.
1. All potential fees, charges, or costs, except the security as set for in Section IV Paragraph C-1, are to be included in the Master Rate Schedule.
 2. At the time a facility is scheduled, the user shall be advised of all applicable and potential fees or costs.
 - a. These are to be noted on the facilities use form.
 - b. All cost notations on the facilities use form(s) are to be initialed by the user's Authorized Representative.
 - c. Disagreement with proposed charge items must be resolved between the parties prior to final approval of the facilities use form. Final authority for charge items rests with the owner.
 3. The District's fees and charges to be included in the Master Rate Schedule will be established by the District pursuant to statute and applicable Board policy.
 4. The City's fees and charges to be included in the Master Rate Schedule will be established by the City pursuant to statute and applicable City ordinances and/or policies.
 5. Facility use charges may be adjusted annually by each party based on actual and/or projected costs.
 6. Adjustments to facility use fees and charges shall be effective at the beginning of each fiscal year (July 1).

7. Staffing charges are to be based on the regular hourly rate then being charged at the time of the use of the facility. Overtime charges are to be applied as required by statute and any applicable employee contracts.
- C. All requested services that are outside beyond the scope of this Agreement are to be assessed and billed pursuant to the provisions of District and/or City policy and/or ordinance. To the maximum extent possible, the cost for these services shall be mutually agreed-upon prior to the costs being incurred.
- D. Damage to Facilities
1. When damage (other than normal wear and tear) to a facility or field does occur, the owner of the facility or field will notify the user immediately.
 2. Representatives of both parties, and insurance agency representatives if appropriate, will evaluate and review the damages, preferably together, to assess necessary mitigation, appropriate cost, scheduled repair, and final work product.
 3. The user will be immediately responsible for costs incurred to repair the damaged property. Such damages will not be charged against the "In Kind Match" account set forth in Section V Paragraph A but shall, instead, be paid immediately to the facility owner.

VI. AMENDMENT TO AGREEMENT

- A. This Agreement may be amended at any time by agreement of both parties.
- B. This Agreement shall be amended if it is determined that there is an ongoing use of one or more facilities not covered by this Agreement, or there are use or fee provisions which can best be addressed through mutual agreement, or upon the mutual agreement of the parties.

VII. HOLD HARMLESS

- A. The City shall defend, indemnify, and hold the District, its officers, employees, and agents, harmless from and against any and all liability, loss, expense, attorneys' fees or claims for injury or damages, arising out of the performance of this Agreement, but only in proportion to and to the extent such liability, loss, expense, attorneys' fees, or claims for injury are caused by or result from the breach of this Agreement or the negligent or intentional acts or omissions of the City, its officers, agents or employees.

The District shall defend, indemnify, and hold the City, its officers, employees, and agents, harmless from and against any and all liability, loss, expense, attorneys' fees or claims for injury or damages, arising out of the performance of this Agreement, but only in proportion to and to the extent such liability, loss, expense, attorneys' fees, or claims for injury are caused by or result from the breach of this Agreement or the negligent or intentional acts or omissions of the District, its officers, agents or employees.

- B. Each party hereto is charged with the duty to inspect for apparent defects prior to the use of any facilities demised hereunder, and to provide appropriate notification to the owner. The facility owner will have the option to close the facility upon receipt of notice of the defect as provided in Section III Paragraph C-5 of this Agreement.
- C. During any use of any facility demised hereunder, the user shall be liable to the owner for any damage to such property caused by the user, or third parties at the invitation or suffrage of the party using the property, normal wear and tear excepted.
- D. The prevailing party in any dispute arising under this Agreement shall be entitled to reasonable attorneys' fees incurred in the litigation or adjudication of such disputes.

VIII. INSURANCE

- A. During the term of this Agreement, each party shall maintain a Memorandum of Coverage from a joint powers risk pool or provide insurance coverage, as herein provided. Each party's respective insurance shall have a minimum per occurrence limit of \$25 million and a maximum self-insured retention of \$500,000. Each party shall issue an additional insured endorsement covering the other party for the value of the issuing party's self-insured retention out the issuing party's liability reserve. The insurance policies shall protect the facility owner from claims for damages for personal injury, including accidental death; and, claims for property damages which may arise from the facility user's operations under this Agreement, whether such operations are by the facility user, its invitees, its subcontractors, or by anyone directly or indirectly employed by the facility user. A copy of a party's certificate of insurance with the following endorsements shall be furnished to the other party:
 - 1. The City or District, as appropriate, and their respective elected and appointed boards, commissions, officers, agents and employees shall be named as additional insured under the aforementioned insurance policies.
 - 2. Such insurance as is afforded by the endorsement for the additional insureds shall serve as the primary insurance. Any other insurance maintained by the facility owner or its officers and employees shall be excess only, and shall not contribute to the coverage afforded by the primary insurance.

3. A party cannot cancel its policy or change coverage without providing thirty (30) days' prior written notice to the other party, addressed as follows: to the City Risk Manager, City of Lodi, P.O. Box 3006, Lodi, CA 95241, and to the Chief Business Officer, Lodi Unified School District, 1305 E. Vine Street. Lodi, CA 95240.
4. The parties agree that any insurance coverage provided by this Agreement shall provide for a claims period following termination of coverage which is at least consistent with the claims period or statutes of limitations found in the California Tort Claims Act (California Government Code Section 810, et seq.). Any "claims made" coverage requiring the insureds to give notice of any potential liability during a time period that is shorter than that found in the Tort Claims Act shall be unacceptable.
5. Each party shall maintain, during the term of this Agreement, worker's compensation insurance as required by law for all of its employees.

IX. TERM OF AGREEMENT

- A. The term of this Agreement shall be for a period of ten (10) years, starting July 1, 2010 and ending June 30, 2020, with an annual review by the City Council and the District's Board of Education.
- B. All fees, charges, or other specifics requiring periodic review and/or modification, are to be considered within the herein described timeframes.
- C. This Agreement may be canceled at any time by either party, by giving to the other party six (6) months prior written notice, or by the mutual consent of the parties. This Agreement may also be terminated on three (3) months notice by either party in the event that either party unilaterally and without cause as provided in Section III Paragraph 5 of this Agreement cancels a previously approved reservation more than ten (10) times in a one year period.

X. MISCELLANEOUS PROVISIONS

A. Modifications

No modification of this Agreement shall be valid unless said modification is in writing and signed by both parties and approved by their respective Board and Council.

B. Attorneys' Fees

If either of the parties hereto brings any action or proceeding against the other, including but not limited to, an action to enforce or to declare the termination, cancellation or revision of the Agreement, the prevailing party in such action or proceedings shall be entitled to receive from the other party all reasonable attorneys' fees and costs, incurred in connection therewith. In the event either party shall initiate any suit, action, or appeal on any matter related to this Agreement, then the court before whom such suit, action, or appeal is taken shall award to the prevailing party such attorneys' fees as the court shall deem reasonable, and such award and all allowable costs of the event may be either added to or deducted from the balance due under this Agreement or be a separate obligation as appropriate.

C. Severability

If any provision or any portion of any provision of this Agreement is held to be unconstitutional, invalid, or unenforceable, the remainder of this Agreement, or portion hereof, shall be deemed severable and shall not be affected, but shall remain in full force and effect.

D. Integrated Agreement

This writing contains the entire agreement between the parties and all prior or contemporaneous agreements, understandings or discussions relative to this agreement are hereby superseded.

E. Jurisdiction and Venue

This Agreement shall be construed in accordance with the laws of the State of California and the parties hereto agree that venue shall be in San Joaquin County, California.

F. Notices

All written notices required pursuant to this Agreement shall be delivered to: City Clerk Manager, City Hall, P.O. Box 3006, 221 West Pine Street, Lodi, CA 95241 with a copy to Parks and Recreation Director, _____; and Superintendent, Lodi Unified School District, 1305 E. Vine Street. Lodi, CA 95240, with a copy to the Assistant Superintendent, Facilities & Planning.

G. Governing Law

This Agreement shall be construed and enforced in accordance with, and the rights of the parties shall be governed by, the laws of the State of California, without reference to its choice of law rules or principles.

H. Successors and Assigns

This Agreement shall be binding upon the parties and their respective successors and assigns, and shall inure to the benefit of the parties hereto and their respective successors and assigns.

I. Counterparts

This Agreement may be executed in two or more counterparts, each of which shall be deemed an original and all of which taken together shall constitute one instrument.

J. Survival

Any provisions of this Agreement that would impose continuing obligations upon a party or, by their nature or terms, would be reasonably understood to have been intended to survive and continue in force and effect after expiration, termination, or cancellation of this Agreement, shall remain in full force and effect.

K. Assignment

The parties shall not assign this Agreement without the prior consent of the other party hereto, and any attempt to do so shall be void and have no effect.

L. Parties in Interest

Nothing in this Agreement, whether express or implied, is intended to confer any rights or remedies under or by reason of this Agreement on any person other than the parties to it and their respective successors and assigns; nothing in this Agreement is intended to relieve or discharge the obligations or liability of any third persons to any party to this Agreement; and no provision of this Agreement gives any third person any right of subrogation or action against any party to this Agreement.

IN WITNESS WHEREOF, the parties hereto have set their hands the day and year first hereinabove mentioned.

CITY OF LODI,
a municipal corporation

LODI UNIFIED SCHOOL DISTRICT,
a political subdivision of the State of California

By _____
Rad Bartlam, Interim City Manager

By _____
Cathy Nichols-Washer, Superintendent

Attest:

Attest:

Randi Johl, City Clerk

Clerk of the Board of Education

Approved as to Form:

Approved as to Form:

D. Stephen Schwabauer
City Attorney



Counsel to the District

RESOLUTION NO. 2011-05

A RESOLUTION OF THE LODI CITY COUNCIL
APPROVING THE JOINT USE AGREEMENT BETWEEN
THE LODI UNIFIED SCHOOL DISTRICT AND THE CITY
OF LODI FOR RECIPROCAL USE OF FACILITIES FOR
THE TERM OF JULY 1, 2010 THROUGH JUNE 30, 2020

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NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby approve the Joint Use Agreement between the Lodi Unified School District and the City of Lodi for reciprocal use of facilities for the term of July 1, 2010 through June 30, 2020 with \$60,000 annual credit to LUSD and \$60,000 in annual use to the City of Lodi, for a net zero sum impact.

Dated: January 5, 2011 ■

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I hereby certify that Resolution No. 2011-05 was passed and adopted by the City Council of the City of Lodi in a regular meeting held January 5, 2011, by the following vote:

AYES: COUNCIL MEMBERS – Hansen, Katzakian, Mounce, and
Nakanishi

NOES: COUNCIL MEMBERS – Mayor Johnson

ABSENT: COUNCIL MEMBERS – None

ABSTAIN: COUNCIL MEMBERS – None


RANDI JOHL
City Clerk